IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:
    Andrew S. Van Luchene

Application No.: Not Yet Assigned

Filed: Herewith

For: METHOD AND APPARATUS FOR
        CONTROLLING OFFERS THAT
        ARE PROVIDED AT A POINT-OF-
        SALE TERMINAL

) Group Art Unit: Not Yet Assigned
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) Examiner: Not Yet Assigned
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) **PRELIMINARY AMENDMENT**
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) Attorney Docket No. 97-564X
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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope with sufficient postage and addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on February 6, 2001.

Dated: February 6, 2001 By: _____
                                Veronika S. Leliever

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

      Prior to examination, entry of the following amendments into the above-identified application is respectfully requested.

A M E N D M E N T

Please **AMEND** the above-identified application as follows:

IN THE SPECIFICATION:

Please amend the specification as follows:

At page 1, after the Title, please insert "This application is a continuation of U.S. Patent Application No. 09/0454,084, filed March 20, 1998 for "METHOD AND APPARATUS FOR CONTROLLING OFFERS THAT ARE PROVIDED AT A POINT-OF-SALE TERMINAL."

At page 1, line 15, please delete "_____" and insert therefor --09/045,036--.

At page 1, line 17, please delete " (Attorney Docket No. WD2-97-558)".

At page 1, line 18, please delete "_____" and insert therefor --09/045,518--.

At page 1, line 19, please delete " (Attorney Docket No." and insert therefor --,--

At page 1, line 20, please delete "WD2-97-561),".

At page 1, line 20, please delete "_____" and insert therefor --09/045,386--.

At page 1, line 22, please delete " (Attorney Docket No. WD2-97-557)".

At page 1, line 23, please delete "_____" and insert therefor --09/045,347--.

At page 2, line 2, please delete " (Attorney Docket No. WD2-97-559)".

IN THE CLAIMS:

Please amend Claims 1-17 as follows:

1. (Amended)   A computer-implemented method for controlling offers that are provided at a point-of-sale terminal, comprising:

providing a plurality of [offers] upsells at a point-of-sale terminal;

measuring a performance rate of each [offer] upsell, thereby defining a plurality of performance rates;

selecting a subset of [offers] upsells based on at least one of the plurality of performance rates; and

providing the subset of [offers] upsells at a point-of-sale terminal.

2. (Amended)   The method of claim 1, in which the step of providing a plurality of [offers] upsells is performed during a first time period; and in which the step of providing the subset of [offers] upsells is performed during a second time period which is subsequent to the first time period.

3. (Amended)   The method of claim 1, in which the step of providing a plurality of [offers] upsells comprises:

providing an [offer] upsell of the plurality of [offers] upsells at each of a plurality of terminals.

4. (Amended)   The method of claim 1, further comprising:

measuring a performance rate of the subset; and   .

if the performance rate of the subset is less than a predetermined threshold,

providing the plurality of [offers] upsells after the step of providing the subset of [offers] upsells.

5. (Amended)   The method of claim 1, in which the step of selecting a subset of [offers] upsells comprises:

selecting [offers] upsells that have at least a predetermined performance rate.

6. (Amended)   The method of claim 1, in which the step of selecting a subset of [offers] upsells comprises:

selecting a predetermined number of highest-performing [offers] upsells.

7. (Amended)   An apparatus for controlling offers that are provided at a point-of-sale terminal, comprising:

a storage device; and

a processor connected to the storage device,

the storage device storing a program for controlling the processor; and

the processor operative with the program to:

provide a plurality of [offers] upsells at a point-of-sale terminal;

measure a performance rate of each [offer] upsell, thereby defining a

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plurality of performance rates;

  select a subset of [offers] <u>upsells</u> based on at least one of the plurality of performance rates; and

  provide the subset of [offers] <u>upsells</u> at a point-of-sale terminal.

8. (Amended)   The apparatus of claim 7, in which the processor is further operative with the program to:

  provide a plurality of [offers] <u>upsells</u> during a first time period; and

  provide the subset of [offers] <u>upsells</u> during a second time period which is subsequent to the first time period.

9. (Amended)   The apparatus of claim 7, in which the processor is further operative with the program to provide an [offer] <u>upsell</u> of the plurality of [offers] <u>upsells</u> at each of a plurality of terminals.

10. (Amended)   The apparatus of claim 7, in which the processor is further operative with the program to:

  measure a performance rate of the subset; and

  if the performance rate of the subset is less than a predetermined threshold,

  provide the plurality of [offers] <u>upsells</u> after a provision of the subset of [offers] <u>upsells</u>.

11. (Amended)   The apparatus of claim 7, in which the processor is further operative with the program to select [offers] <u>upsells</u> that have at least a predetermined performance rate.

12. (Amended)   The apparatus of claim 7, in which the processor is further operative with the program to select a predetermined number of highest-performing [offers] <u>upsells</u>.

13. (Amended)   A computer-implemented method for controlling offers that are

provided at a point-of-sale terminal, comprising:

    providing a first [offer] upsell at a point-of-sale terminal;

    measuring a performance rate of the first [offer] upsell; and

    if the performance rate of the first [offer] upsell is below a predetermined threshold,

        providing a second [offer] upsell at a point-of-sale terminal.

14. (Amended)   An apparatus for controlling offers that are provided at a point-of-sale terminal, comprising:

    a storage device; and

    a processor connected to the storage device,

    the storage device storing a program for controlling the processor; and

    the processor operative with the program to:

        provide a first [offer] upsell at a point-of-sale terminal;

        measure a performance rate of the first [offer] upsell; and

        if the performance rate of the first [offer] upsell is below a predetermined threshold,

        provide a second [offer] upsell at a point-of-sale terminal.

15. (Amended)   A computer-implemented method for controlling offers that are provided at a point-of-sale terminal, comprising:

    providing a first [offer] upsell at a first point-of-sale terminal;

    providing a second [offer] upsell at a second point-of-sale terminal;

    measuring a performance rate of the first [offer] upsell;

    measuring a performance rate of the second [offer] upsell; and

    if the performance rate of the second [offer] upsell is less than the performance rate of the first [offer] upsell,

        providing the first [offer] upsell at the second point-of-sale terminal.

16. (Amended)   An apparatus for controlling offers that are provided at a point-of-sale terminal, comprising:

a storage device; and

a processor connected to the storage device,

the storage device storing a program for controlling the processor; and

the processor operative with the program to:

provide a first [offer] <u>upsell</u> at a first point-of-sale terminal;

provide a second [offer] <u>upsell</u> at a second point-of-sale terminal;

measure a performance rate of the first [offer] <u>upsell</u>;

measure a performance rate of the second [offer] <u>upsell</u>; and

if the performance rate of the second [offer] <u>upsell</u> is less than the
performance rate of the first [offer] <u>upsell</u>,

provide the first [offer] <u>upsell</u> at the second point-of-sale terminal.
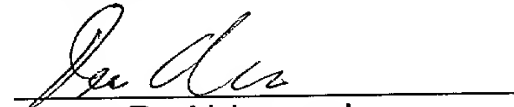

17. (Amended)   A <u>computer-implemented</u> method for controlling offers that
are provided at a point-of-sale terminal, comprising:

for each of a plurality of purchases,

determining an upsell in dependence on the purchase,

determining an upsell price, each upsell price being based on a
purchase, and

offering to exchange the upsell price for the upsell;

measuring a performance rate of each upsell, thereby defining a plurality
of performance rates;

selecting a subset of upsells based on at least one of the plurality of
performance rates; and

providing the subset of upsells at a point-of-sale terminal.

REMARKS

Applicants presently intend to file an additional paper in this application. Accordingly, if the application is taken up for action prior to receipt of such paper, the Examiner is respectfully requested to contact Applicants' undersigned attorney at the telephone number listed above or by electronic mail at alderucci@WalkerDigital.com.

Respectfully submitted,

February 6, 2001
Date

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